

## **REMARKS/ARGUMENTS**

Applicant responds herein to the Office Action dated January 13, 2010.

Claims 64 and 69-72 are pending in the application and are being rejected on grounds of obviousness over Gilmore (EP 0875843), in view of Aharoni (6,014,694). Reconsideration is requested in view of the following remarks.

With reference to the specification, including the text at page 5, line 16, through at least page 6, line 7 and to Fig. 11, independent claim 64 “adjusts a data transfer speed applied to download the target data in order to finish the downloading operation in the calculated time”. This is based on the recitation in claim 64 of calculating “ a time necessary for presenting the advertisement up to the end based on a size of advertisement data”.

In the first instance, applicant respectfully traverses the assertion in the Office Action that Gilmore includes teachings “wherein the user side equipment is effective to calculate a time necessary for presenting the advertisement up to the end based on a size of advertisement data and, based on a transmission speed of a communication line and a size of the target data”, referring the applicant to page 2, lines 46-48 and page 4, lines 29-56 of this reference.

In fact, the text of Gilmore, at page 2, lines 46-48, suggests not carrying out any calculation of any of a time necessary for presenting any advertisement. Instead, the text suggests receiving the data as fast as the communication channel would permit. In Gilmore, the advertisement is repeatedly displayed until the end of the downloading operation of the target data, as described, for example, at page 4, lines 39-41 thereof. Thus, Gilmore does not suggest or mention calculating a time necessary for presenting the advertisement up to the end, based on a size of advertisement data, and based on a transmission speed of a communication line and a size of the target data, as asserted in the Office Action. Thus, not only does Gilmore not suggest or mention a reason or motive for calculating the time for presenting the advertisement up to the end, but to the contrary, it suggests receiving the data as fast as the channel of communication would allow.

That is, it seems that page 2, lines 46-48 of Gilmore only addresses the subject of making effective use of bandwidth and effective use of void time until the end of the download of the requested page. However, Gilmore does not suggest or mention to “calculate a time necessary

for presenting advertisement up to the end based on the size of advertisement data, and based on a transmission speed of a communication line and the size of the target data...” as in the instant claims. Similarly, the Gilmore text, at page 4, lines 29-56 (upon which the Office Action relies), merely suggests a specific operation unique to Gilmore, which involves repeated showing of the advertisement while the downloading of the target page is ongoing. This has no relevance to the instant claims and, of course, does not provide the missing teachings of the claimed recitation involving an operation to “calculate a time necessary for presenting advertisement up to the end based on the size of advertisement data, and based on a transmission speed of a communication line and the size of the target data...”, as in the instant claims.

Therefore, the foundation teaching, upon which the Office Action relies, is missing in Gilmore and that missing teaching is not provided in the secondary Aharoni reference.

Turning to Aharoni, it is noted that the Office Action utilizes Aharoni because “Gilmore does not specifically teach adjusting a data transfer speed applied to download the target data in order to finish the downloading operation in the calculated time”. The Office Action contends that this missing teaching is taught in Aharoni, including in its Abstract, at col. 2, lines 11-24, at col. 3, line 62 to col. 4, line 34, at col. 6, line 61 to col. 7, line 6, and at col. 11, lines 24-25. Applicant respectfully traverses and disagrees with that assertion.

Aharoni describes a technique which is asserted to be: “A system for adaptively transporting video over networks wherein the available bandwidth varies with time” (see the Abstract thereof). Aharoni seems to relate to a technique which selects a compression ratio of a frame in accordance with the available bandwidth of a network. Therefore, the applicant respectfully submits that Aharoni does not suggest or mention that “the user side equipment...adjusts a data transfer speed applied to download the target data...”.

As compared to the present application, Aharoni merely suggests that “the available bandwidth varies with time...” (for example, Abstract and col. 2, lines 11-13 of the specification). The applicant submits that Aharoni simply states that a network state changes due to various reasons, for example, increase and decrease of a traffic. Therefore, Aharoni does not suggest or mention “the user side equipment...adjusts a data transfer speed applied to download the target data...”. In other portions of the specification of Aharoni, it seems that a network state changes due to various reasons, for example, the capacity of the network and the increase and decrease of

traffic, and Aharoni does not suggest or mention “the user side equipment...adjusts a data transfer speed applied to a download the target data...”.

In the specification, for example, at line 62 of col. 3 to line 8 of col 4, Aharoni merely suggests an operation involving “measuring the bandwidth of network channel...the step of the sender transmitting a plurality of packets to the receiver over the network channel...the receiver transmitting to the sender acknowledgments...measuring the reception bandwidth of the packets by the receiver ...”.

Further, in the specification col. 6, line 61 to col. 7, line 6, an operation is described in which a compression ratio is changed. However, in such an operation, the data transfer speed is not changed because, in Aharoni, the data transfer speed depends on capacity and the state of the network and the applicant submits that changing the compression ratio does not change the data transfer speed.

In col. 11, lines 25-44, Aharoni merely suggests that “the server approximately adjusts the rate of data flow from the server to client...”. However, such an operation entails, in Aharoni, “choice of what compression level to send” (col. 11, lines 49-65) rather than that “the user side equipment...adjusts a data transfer speed applied to download the target data...”. In other words, Aharoni suggests a technique of measuring the currently available bandwidth and selecting a compression ratio based on the bandwidth.

Compared to Aharoni, in the present claims, “the user side equipment...adjusts a data transfer speed...”. Such a technical feature is significantly different from the Aharoni technique. It should be noted that, in the first place, Aharoni cannot be used if the target data is not appropriate for being compressed. In the present invention, a compression operation is not necessary, and it is possible to apply the present invention to the data or the system, whether or not the data is compressed.

In addition, the applicant believes that Aharoni does not suggest or mention a motivation for conceiving the present invention or using its teachings to modify the teachings of the primary Gilmore reference. Aharoni’s object is to transmit the stream data to the client even if the network has a slow transporting speed, for example, a dialup connection (for example, line 10, col. 1 to line 9, col. 2). Compared to Aharoni, the present application has a different object, that is, “[0127...Therefore the user can hear and view the advertisement which can be displayed in a

complete form to the user, and hence it is possible to enhance the effect of the advertisement". The applicant believes that, compared to Aharoni, the present application has a significantly different purpose and resulting effect.

Accordingly, applicant believes that independent claim 64 is not rendered obvious by the combined teachings of Gilmore and Aharoni, and merits to be promptly allowed, together with its dependent claims, which impose further limitations thereon and which are even further distanced from the prior art.

Accordingly, the Examiner is respectfully requested to reconsider the application, allow the claims and pass this case to issue.

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